

CHAPTER 18.28

Planned Unit Development Districts

18.28.010 Purpose of planned unit development districts – building codes not affected.

This Chapter is intended to allow for the development of land in a way which might not be permitted under traditional zoning regulations. It is anticipated that this Chapter will permit developments which will preserve the natural and scenic features of large open areas by arranging buildings and homes in innovative ways, thereby promoting the public interest, while at the same time providing an efficient use of land. It is not the purpose of this Chapter to modify or in any way vary or reduce the requirements of any building or fire code. (Ord. 673-87)

18.28.020 State provisions superseded – exception.

This Chapter is intended to supersede the provisions of, and prevent the application in this City of, the Planned Unit Development Act of 1972 (Article 67 of Title 24, C.R.S., 1973) except as provided in Section 18.28.270 of this Chapter. (Ord. 673-87)

18.28.030 Size – development according to plan – ownership – uses – trade-off of setbacks and yards for open spaces.

A planned unit development (PUD) is an area of land at least two (2) acres in size (except in those cases noted at Section 18.28.040 below) which is developed according to a plan devised by the landowner and approved in advance by the City. The area may or may not be divided geographically into separately owned parcels, as the land owner determines, but in any event at least part of the area must be co-owned in undivided interests and be available for park or recreational use by persons living or working in the PUD. The City Council may authorize residential uses and commercial uses in the same PUD, and conceivably light industrial uses may be allowed in PUDs. Typically, the Council will not require setbacks or yards for individual buildings, and in return the landowner will set aside substantial areas of open space. (Ord. 673-87)

18.28.040 Site requirement – waiver permitted, when.

Upon the specific request of the landowner or upon the recommendation of the Planning Commission or upon the motion of the City Council, the two-acre requirement set forth in Section 18.28.030 above may be waived if, after considering the land use requested, Council finds that such waiver would be beneficial to the City and foster the objectives of this Title and the Evans Comprehensive Plan. (Ord. 673-87)

18.28.050 Zoning as PUD – required for planned unit development and limited thereto.

Land areas are eligible for PUD development only if the area has been zoned as a planned unit development district. Conversely, the only development permitted in a planned unit development district is that done pursuant to an approved PUD plan. (Ord. 673-87)

18.28.060 Zoning as PUD – requirements.

Land area shall be zoned as a planned unit development district only upon the application of each land owner of the area and only if the City Council, after considering Planning Commission

recommendations, has concluded on the basis of a conceptual plan submitted by the landowner that the area will be suitable for development pursuant to a PUD plan. (Ord. 673-87)

18.28.070 Conceptual plan – contents.

The conceptual plan referred to in Section 18.28.060 above shall indicate the types of land uses, the general location and number of buildings and other structures, the general location and dimensions of open areas, the general location of internal streets and walkways and the style of architecture proposed. (Ord. 673-87)

18.28.080 Conceptual plan – not required when–simultaneous PUD plan and zoning approval requests permitted.

A landowner may apply to have an area zoned as a planned unit development district and at the same time apply for approval of a PUD plan. In that case, the conceptual plan described in Section 18.28.070 above shall not be necessary. (Ord. 673-87)

18.28.090 Zoning and PUD plan approval required before development.

A land area shall not be developed as a PUD until the same area has been zoned as a planned unit development district and until a PUD plan has been approved. (Ord. 673-87)

18.28.100 PUD plan – contents.

The PUD plan is a comprehensive plan submitted to the City in advance of development, projecting the development and use of an area of land, showing in detail the types and designs of buildings, the uses to which buildings will be put, the locations of the buildings and the location and designs of streets, lanes, parking areas, parks and other open areas. The plan consists of the application for PUD approval, all information, maps and other data submitted with the application, and all testimony and exhibits presented by the applicant at hearings held in conjunction with PUD approval. (Ord. 673-87)

18.28.110 Application for PUD plan approval – signatures required – contents.

The process of seeking approval for a PUD plan shall be initiated by the submission of a written application to the planning official. The application shall be signed by each landowner of the land included in the proposed PUD. The application form shall require all of the following information, data and documents:

- A. The legal description of the area;
- B. A survey plat showing the outer boundaries of the area and showing elevation contours at two-foot intervals;
- C. A site plan showing the location of all buildings, signs, streets, lanes, parking areas, parks, open areas, recreational facilities and all other improvements; the site plan shall show the dimensions of all structures, streets, parking areas and recreational facilities, and shall show the distances between structures and boundary lines;
- D. Preliminary drawings of all buildings, with elevations;

E. A landscape plan showing the location of landscaped areas and containing a narrative statement describing how the area will be landscaped;

F. A preliminary engineering plan for streets, sidewalks, lanes, utility lines and drainage facilities;

G. An indication of the location, height and size of proposed signs, lighting and advertising devices;

H. A narrative statement of how each building and structure will be used, the volume of business expected to be conducted at any commercial or industrial establishment, the hours of business of those establishments, the number of employees expected to work in any commercial or industrial establishment, the number of dwellings units in each building, and all other information calculated to disclose, to the extent possible, the uses to which the area will be put and the impact of those uses on the area and on land adjoining the area;

I. A statement of how the co-owned area will be managed, used and maintained, and including a projected budget for a reasonable period of time for the operation and maintenance of such areas;

J. A preliminary development schedule. (Ord. 673-87)

18.28.120 Administrative review – information requested – report to Planning Commission – scheduling Planning Commission hearing.

The application and all supporting data provided for at Section 18.28.110 above first shall be reviewed by the Planning Official and by such other city employees as are designated by the City Manager. The Planning Official may require that the application be supplemented from time to time in order that all of the information and data referred to in Sections 18.28.110 through 18.28.170 is included. The Planning Official may request information and data in addition to that referred to in Sections 18.28.110 through 18.28.170 if he or she feels that such additional information and data is reasonably necessary for a complete review. The Planning Official and such other employees as are designated by the City Manager shall review the application, and within thirty (30) days after its submission the Planning Official shall present to the Planning Commission a written report analyzing the application in terms of the criteria set forth in Sections 18.28.180, 18.28.190, and 18.28.200 of this Chapter. At the time of presenting his or her report to the Planning Commission, the Planning Official, in cooperation with the City Manager, shall schedule a date for a public hearing on the application before the Planning Commission at a regular or special meeting. The hearing shall be scheduled as soon as practicable, considering the business demands of the Planning Commission, but in any case within forty-five (45) days of the filing of the application or the supplementation thereof pursuant to this Section. (Ord. 673-87)

18.28.125 PUD plans and plan amendments – Planning Commission hearing – notice.

A. The Planning Official shall prepare a notice of the public hearing in a newspaper of general circulation in the City at least ten (10) days before any such public hearing but not more than twenty (20) days before the meeting.

B. Notice of public hearing shall be posted on the premises at least ten (10) days prior to any such hearing date indicating there is a request for a change in land use and where interested parties can obtain additional information. Such sign shall be a minimum of eighteen (18) inches by twenty-four (24) inches, and composed of letters not less than one and one half (1½) inches in height. The notice shall contain the following information:

NOTICE
PUBLIC HEARING
Land Use Proposal
(Phone number)

(Ord. 120-01)

18.28.130 Review for building and fire code compliance – effect of noncompliance – approval not to affect building code enforcement.

The application and supporting documentation provided for at Section 18.28.110 above, in addition to the review provided for at Section 18.28.120 above, also shall be reviewed at the earliest opportunity by the Director of Protective Inspections so that he or she may discover if the proposed construction would appear to violate applicable building codes, and the Director of Protective Inspections shall present his or her evaluation, in writing, to the Planning Official and to the applicant. If the evaluation report finds that the proposed construction would violate any applicable building code, no further processing of the application shall occur until the application has been changed by the applicant to eliminate the prospective violations. The fact that the evaluation report detects no prospective building code violations shall not affect the right and responsibility of the Director of Protective Inspections to strictly enforce the requirements of applicable building codes in later reviewing final construction plans and specification in connection with building permit applications. (Ord. 673-87)

18.28.140 Planning Commission – report – access to reports by parties in interest.

At the public hearing scheduled as provided at Section 18.28.120 above, the Planning Commission shall consider the written report of the Planning Official and shall indicate its agreement or disagreement to the analysis contained in the report. The Planning Commission shall also make a recommendation to the City Council either for or against approval of the PUD plan and, if it recommends approval, shall recommend to the Council conditions and safeguards which it feels should be imposed on the landowner. The analysis and recommendations of the Planning Commission may be contained in a written report or may be reflected in the minutes of its meetings. The Planning Commission shall complete its evaluation, as provided in this Section, prior to the hearing before the Council. The written report of the Planning Official and of the Planning Commission, or in the minutes, shall be furnished to any party in interest, as defined at Section 18.28.160 below, upon request. (Ord. 673-87)

18.28.150 PUD plans and plan amendments – City Council hearing – scheduling – notice.

A. The Planning Official, in cooperation with the City Manager, shall schedule a date for a public hearing before the City Council, at a regular or special hearing occurring within ninety (90) days of the filing of the application and after submission of the Planning Commission's written report. The Planning Official shall prepare a notice of the public hearing, giving the date, time and place of the hearing and area involved, inviting inquiry at the Planning Department and inviting attendance at the hearing. The notice shall be published one (1) time in a newspaper of general circulation in the City at least ten (10) days before any such hearing but not more than twenty (20) days before the hearing.

B. Notice of public hearing shall be posted on the premises at least ten (10) days prior to any such hearing date indicating there is a request for change in land use and where interested parties can obtain additional information. Such sign shall be a eighteen (18) inches by twenty-four (24) inches, and composed of letters not less than one and one half (1½) inches in height. The notice shall contain the following information:

NOTICE
PUBLIC HEARING
Land Use Proposal
(Phone Number)

(Ord. 1077-97; Ord. 673-87)

18.28.160 City Council hearing – purpose – parties in interest defined – conduct – consideration of reports.

The hearing before the City Council shall be conducted to give parties in interest an opportunity to present arguments and evidence favoring or opposing the application. The term *parties in interest* includes any of the landowners applying for PUD approval, any person or persons selected by them to present their position, any individuals owning or occupying land in the neighborhood surrounding the proposed PUD if such land, in the judgment of the Council, probably would be affected by the PUD, and any persons selected by such owners or occupiers of neighboring land to present their position. The Council may limit the number of persons presenting arguments and evidence, in order to avoid unnecessary duplication. The Council may adopt procedural rules for the conducting of such hearings, in order to supplement the provisions of Sections 18.28.110 through 18.28.170 of this Chapter. At the hearing, the Council shall consider also the report of the Planning Official and the Planning Commission report or minutes. (Ord. 673-87)

18.28.170 City Council decision – deadline – form – reasons to be included.

Within thirty (30) days following the public hearing provided for at Section 18.28.160 above or within thirty (30) days following the last public hearing if more than one (1) is held, the City Council shall decide for or against approval of the PUD plan. The decision shall be in writing and shall state, with as much particularity as is reasonably practicable, the reasons for the approval or disapproval of the PUD plan. (Ord. 673-87)

18.28.180 Evaluation criterion of public interest and safeguards to public and landowners.

The basic criterion for the City Council to consider in judging a PUD plan is whether it would or would not serve the public interest and whether the self-regulating aspects of the proposed PUD would or would not provide safeguards to the public, and to the persons owning and occupying the land area of the PUD, which would be approximately equivalent to the safeguards provided by other regulations of this Title. In making that determination, the Council shall consider the proposed PUD in terms of compatibility of land uses within the PUD and between those in the neighborhood and those proposed for the PUD, traffic, appearance and recreational potentials, the likelihood that the PUD will achieve the objectives described in Section 18.28.010 of this Chapter, and any other matters which the Council determines will be relevant in making its decision. (Ord. 673-87)

18.28.190 Approval by City Council – grounds – nonconformance of plan to conceptual plan is grounds for denial.

The City Council shall approve the PUD plan if it concludes that the PUD will promote the public interest, will achieve the basic objectives of this Chapter, and will not injure the legitimate concerns of the citizens of the City in general and of the persons living and working in the surrounding neighborhood in particular. The Council may, however, deny approval to a PUD plan solely on the basis that it fails to

sufficiently conform to the conceptual plan on the basis of which the planned unit development district zoning was granted. (Ord. 673-87)

18.28.200 Approval by City Council – simultaneous zoning and plan requests.

In cases where the landowner applies to have an area zoned as a planned unit development district and at the same time applies for approval of a PUD plan, as permitted in Section 18.28.080 of this Chapter, the City Council may approve the zoning application but deny approval of the PUD plan. (Ord. 673-87)

18.28.210 Approval by City Council – approval document.

If the City Council approves the PUD plan, the Council shall direct the preparation by the City Attorney of an approval document. The purpose of the document shall be to identify and describe, in as much detail as possible, all aspects of the PUD plan as approved. An additional purpose of the approval document will be to set forth any conditions and undertakings which the landowner must satisfy in the course of construction and development. The Planning Official shall cause the approval document, or an abbreviated form of it, to be recorded in the real estate records of Weld County, Colorado. (Ord. 673-87)

18.28.220 Disapproval by City Council – zoning initiation at request of landowner.

If a PUD plan is disapproved by the City Council, the Council shall thereupon, if requested by the landowner, initiates a zoning amendment procedure to place the land in an appropriate zoning district other than the planned unit development district. (Ord.673-87)

18.28.230 Conformance to approval document required – review of plans and specifications therefor as building permit requirement.

All construction and other activity on land in a PUD shall be in strict conformity to the approval document. When the final construction plans and specifications are presented to the Director of Protective Inspections, he or she shall first determine whether they show compliance with all applicable building codes and if such compliance exists, but if there is any inconsistency between the final construction plans and specifications and the building plans included in the PUD plan, he or she shall then refer the final construction plans and specifications to the Planning Commission for a determination of whether the inconsistency is significant. Only if that determination is made favorably to the applicant may building permits be issued. The mistaken issuance of any building permit shall not constitute the waiver of the requirements and limitations of the approval document. (Ord. 673-87)

18.28.240 Noncompliance with approval document unlawful.

Any construction or other activity which is not in strict compliance to the approval document shall constitute an unlawful act, within the meaning of Chapter 18.48 of this Title. (Ord. 673-87)

18.28.250 Uses and densities in completed PUD to conform to approval document – nonconformance unlawful.

After completion of all construction and other development of a PUD, the buildings and land shall be used for activities authorized by the approval document, and at density levels specified therein, and any contrary use or activity shall be an unlawful act within the meaning of Chapter 18.48 of this Title. (Ord. 673-87)

18.28.260 Buyers after approval document is recorded are subject to it.

By acquiring any ownership or possessory interest in land included in a PUD after an approval document, or an abbreviated form thereof, has been recorded in the real estate records of Weld County, Colorado, an individual becomes obligated to comply with the requirements and limitations of the approval document as though such person has been a landowner at the time the approval document was issued. (Ord. 673-87)

18.28.270 Open space and common areas – state maintenance and upkeep provisions apply.

It is declared that this Title shall not supersede the Planned Unit Development Act of 1972, appearing as Article 67 of Title 24, C.R.S., 1973, with respect to the provisions of that Act pertaining to the continued maintenance and upkeep of open space and other commonly-owned areas and the consequences of failing to maintain such areas. In all other respects this Title supersedes said Act. (Ord. 673-87)

18.28.280 Variances from approval document – authority of planning official – limitations.

The Planning Official, with the concurrence of the Director of Protective Inspections, may grant minor variances from the approval document in order to permit minimal changes in the design and location of buildings and other improvements, if such variances are required by engineering or other circumstances not foreseen at the time the approval document was issued. In no case may the Planning Official authorize any building code violation or authorize the size of any building to be increased by more than ten percent (10%) or authorize the height of any building to be increased by more than ten percent (10%), or improvements by more than ten (10) feet in any direction. If a greater variance is desired, applications therefor must be made, reviewed, evaluated and decided upon as provided in this Chapter with respect to PUD plans. (Ord. 673-87)

18.28.290 Fees.

When plans or other data are required to be submitted by this Chapter, they shall be accompanied at the time of filing by a fee as established by City Council by resolution. (Ord. 1119-98; Ord. 1061-97)

18.28.300 Homeowner's Association required to maintain public improvements.

A. Should a Homeowner's Association be created by a property owner or developer with the responsibility of maintaining certain improvements, then in that event, such responsibility for maintaining improvements by the Homeowner's Association shall be mandatory under this Code. In the event that the Homeowner's Association fails to properly maintain such public improvements, including but not limited to landscaped streets, sidewalks, fences, irrigation systems, walkways, bike trails and open space, then in that event, after serving the Homeowner's Association with a demand letter for compliance at least ten (10) days prior to taking action, the City Council may then provide the appropriate maintenance to such public improvement, and charge back the Homeowner's Association for its costs, including a five percent (5%) fee for inspection and other administrative costs.

B. The City Clerk, after the work has been performed by the City, shall forward a statement to the Homeowner's Association, to include all costs of the City, including the five percent (5%) fee, with a demand that such statement be paid within thirty (30) days of mailing by first class mail, postage prepaid.

C. Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against the property of the particular subdivision, with the defaulting

Homeowner's Association, and shall have priority over all other liens except general property taxes and prior assessments, and the same may be certified at any time after such failure to pay the statement within said thirty (30) days by the City Clerk to the County Treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten percent (10%) penalty to defray the cost of collection. (Ord. 044-00)